United Nations A/56/327

General Assembly

Distr.: General
31 August 2001
English
Original: French/Spanish

Fifty-sixth session
Item 131 (c) of the provisional agenda*
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Democratic Republic of the Congo

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Mr. Roberto Garretón (Chile), pursuant to General Assembly resolution 55/117 and Commission on Human Rights resolution 2001/19, endorsed by the Economic and Social Council at its substantive session for 2001.

* A/56/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report was submitted on 31 August 2001 so as to include as much updated information as possible.

01-52741 (E) 260901 270901

Report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo

Contents

		Paragraphs	Page
I.	Introduction	1–9	4
	A. Mandate	1–3	4
	B. Activities	4–6	4
	C. International obligations of the Democratic Republic of the Congo	7–9	5
II.	Armed conflicts taking place in the Democratic Republic of the Congo	10–25	5
	A. Conflict between the Democratic Republic of the Congo and RCD and Rwanda	11–14	5
	B. Conflict between the Democratic Republic of the Congo and FLC and Uganda	15–17	5
	C. Internal armed conflict between the Bahema and the Balendu in Ituri	18	6
	D. The Lusaka peace process	19–23	6
	E. Impact of the war	24–25	7
III.	The Inter-Congolese Dialogue	26–30	7
IV.	Political development and democratization in Government-controlled territory	31–38	8
	A. The assassination of President Laurent Kabila and appointment of his successor	31–34	8
	B. The Government of Joseph Kabila	35–38	8
V.	Political developments in territory controlled by the *Rassemblement congolais pour la démocratie* (RCD)	39–46	9
VI.	Political development in territory controlled by the *Front de libération du Congo* (FLC)	47–53	9
VII.	Human rights in Government-controlled territory	54–68	10
	A. National Human Rights Conference	54–56	10
	B. Violations of human rights and international humanitarian law	57–68	10
VIII.	Human rights and international humanitarian law in territory controlled by the *Rassemblement congolais pour la démocratie* (RCD)	69–80	12
IX.	Human rights and international humanitarian law in territory controlled by the *Front de libération du Congo* (FLC)	81–91	14
X.	Conclusions and recommendations	92–112	15
	A. Conclusions	92–103	15
	B. Recommendations	104–112	16

Annexes

I. Reports and resolutions of the Commission on Human Rights and the General Assembly 18

II. Officials, eminent persons and institutions with whom the special rapporteur met and places he visited during his mission to the Democratic Republic of the Congo (19 July to 2 August 2001) 19

III. Armed conflicts taking place in the territory of the Democratic Republic of the Congo 22

IV. International instruments to which the Democratic Republic of the Congo is a party 24

I. Introduction

A. Mandate

1. The Commission on Human Rights has been examining the situation of human rights in the Democratic Republic of the Congo (formerly Zaire) since 1994 (see annex I). The Special Rapporteur on the subject has been submitting preliminary reports to the General Assembly since 1997. This is the fifth preliminary report, submitted pursuant to General Assembly resolution 55/117 and Commission on Human Rights resolution 2001/19, which extended his mandate for a year.

2. Furthermore, in the report on its mission to the Great Lakes region (S/2001/521), the Security Council stated that it "should look forward to further reports from the Special Rapporteur, Roberto Garretón" on human rights in the Democratic Republic of the Congo.

3. The Special Rapporteur, in conjunction with the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, also has the mandate to carry out, as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo between 1996 and 1997, "a joint mission" to investigate the massacres in the province of South Kivu and other atrocities referred to in his latest and previous reports, with a view to bringing to justice those responsible, and to report thereon to the General Assembly and the Commission on Human Rights. At the annual meeting of special rapporteurs held in Geneva, the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo agreed with the Special Rapporteur on extrajudicial, summary or arbitrary executions to propose both to the Congolese authorities and to the leaders of the two main rebel movements (*Rassemblement congolais pour la démocratie* (RCD)/Goma and *Front de libération du Congo* (FLC)) that a first mission be carried out in January 2002, in conjunction with the representative of the Working Group on Enforced or Involuntary Disappearances, to plan with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) the essential security conditions for the investigation, the selection of the places to be investigated and the determination of essential logistical needs. On his July mission, the Special Rapporteur informed President Kabila and the rebel leaders of this intention, which they all welcomed. The Special Rapporteur is thus in a position to inform the General Assembly that the joint mission will begin its work in the coming months.

B. Activities

4. The Special Rapporteur transmitted to the Government of President Kabila 20 urgent action bulletins and communications containing information on cases of human rights violations involving 87 victims. He received a reply from the Chargé d'affaires of the Democratic Republic of the Congo to the international organizations in Geneva which gave, not so much information, as that official's personal views on one of the reported cases. He also received two detailed communications from the Minister for Press and Communications on matters within his purview. RCD/Goma submitted to him a written memorandum on the human rights situation in the country.

5. In the course of the year, the Special Rapporteur undertook two missions to the Democratic Republic of the Congo (11 to 21 March and 20 July to 1 August). Based on the first of these missions, he submitted an additional report to the Commission on Human Rights (E/CN.4/2001/40/Add.1), which remains fully valid and should therefore be considered an integral part of the present report. He undertook only one mission to Geneva (2 to 8 August). In the course of his missions, he met with the officials, institutions and organizations listed in annex II, in particular: the new President of the Democratic Republic of the Congo, Major General Joseph Kabila; the President and Executive Committee of RCD/Goma, which with Rwandan support is occupying the eastern part of the country; and on two occasions the Chairman or Executive Secretary of FLC, which with Ugandan support is occupying the north of the country.

6. The Special Rapporteur was able to transmit to the Security Council information and opinions that might be useful for its decisions with regard to the maintenance of peace and security in the region, the basic element of which is respect for human rights (27 October 2000, 23 February and 8 May 2001).

C. International obligations of the Democratic Republic of the Congo

7. The Democratic Republic of the Congo has not, as announced, ratified the Additional Protocol to the United Nations Convention on the Rights of the Child on involvement of children in armed conflict; it has only signed it (see annex IV).

8. The Special Rapporteur regrets that successive Congolese Governments have not replied to any of the special mechanisms of the Commission on Human Rights concerning the allegations of human rights violations, and that it has a backlog of 12 reports to human rights treaty bodies.

9. The Special Rapporteur denounces the fact that on 3 April, in reprisal for their having met with him only a few days previously, FLC ordered the detention of three judges, in flagrant violation of Commission on Human Rights resolution 2001/11 on the protection of individuals who cooperate with the United Nations.

II. Armed conflicts taking place in the Democratic Republic of the Congo

10. Nine major armed conflicts are taking place in the Democratic Republic of the Congo (see annex III). The main ones are:

A. Conflict between the Democratic Republic of the Congo and RCD and Rwanda

11. This is the most serious conflict, involving, on the Government side, the Congolese Armed Forces (FAC) and the armies of Angola, Namibia and Zimbabwe, with formal and informal support from the irregular group known as the Mai-Mai (see A/55/403) and, on the Rwanda and RCD side, the Rwandan Patriotic Army (APR), the RCD/Goma army, the Local Defence Unit (a paramilitary guerrilla group), former Interahamwe and former Hutu prisoners in the service of APR and troops of the Burundian army, especially in the Uvira area.

12. Other groups opposed to the Governments of neighbouring countries involved in the Congolese war are active in this conflict and commit crimes against Congolese civilians in the Democratic Republic of the Congo. They are responsible for considerable violence and, on the pretext of fighting the armies of Rwanda and Burundi, massacre innocent Congolese citizens. These groups are the Interahamwe, the former Rwandan Armed Forces (ex-FAR) and the Burundian *Forces pour la défense de la démocratie* (FDD), all of which have committed violations of international humanitarian law.

13. For the Congolese population, the term "rebels" does not exist: all Congolese in all three parts into which the country is divided speak only of "aggressors". The discourteous reception given by former President Laurent Kabila to MONUC was explained by the Security Council's references to Rwanda, Burundi and Uganda as "uninvited" countries, while the new relationship with MONUC since late 2000 is explained by the Security Council's reference to countries "which have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo" (see Security Council resolution 1304 (2000)).

14. Terror reigns in the area occupied by RCD and Rwanda. As in previous years, violence by members of the Mai-Mai, Interahamwe, ex-FAR and FDD, who attack RCD, APR and Burundian soldiers, triggers acts of revenge and massacres. Although on his visits to Goma in 2001 the Special Rapporteur found that there was less tension than in 2000 (see E/CN.4/2001/40/Add.1, paras. 27 and 28), the same is not true of other cities such as Kisangani. The Special Rapporteur has not received any information on massacres of the Banyamulenge population referred to in paragraph 59 of the Secretary-General's sixth report on MONUC activities (S/2001/128).

B. Conflict between the Democratic Republic of the Congo and FLC and Uganda

15. In the north-east of the Democratic Republic of the Congo, Government forces, along with the country's Angolan and Zimbabwean allies and the Mai-Mai militias, are fighting the Uganda People's Defence Forces (UPDF) and FLC. Ugandan troops act with complete contempt for the Congolese population and their presence is devastating.

16. The violence of the Ugandan rebels of the National Army for the Liberation of Uganda (NALU) and the Allied Democratic Forces (ADF) is creating

considerable insecurity because of bloody attacks on the civilian population; in pursuing these guerrilla fighters, UPDF simply attacks the defenceless population all over again.

17. The inability of the Ugandans and FLC to put a stop to the violence was reflected in the mass murder in late June at Aru, Ituri, of between 250 and 843 people accused of witchcraft. This case is unconnected to the Bahemu-Balendu conflict. Various sources blame the Ugandans, not just for their inability to control the region but for directly carrying out the murders.

C. Internal armed conflict between the Bahema and the Balendu in Ituri

18. It was the seriousness of this conflict unfolding in territory controlled by Uganda and FLC, especially the 19 January massacres, that led to the Special Rapporteur's mission in March, undertaken at the request of members of the Security Council (see E/CN.4/2001/40/Add.1, paras. 39 to 54). Tensions eased after the Protocol of Agreement skilfully secured by the FLC Chairman, Jean-Pierre Bemba, on 17 February (para. 53), but the success of the Protocol depended both on the willingness of the parties and on Mr. Bemba's skill and interest in imposing his authority on the Ugandans, which did not happen. Although initially the violence abated, the Ugandans continued to favour the Bahema and there has been a resumption of terrible incidents, such as the cold-blooded, premeditated murder of six International Committee of the Red Cross (ICRC) humanitarian workers on 26 April. Only days before the murder, the Bahema had launched a smear campaign against humanitarian and human rights personnel: the MONUC human rights officer, the Special Rapporteur and ICRC, whose personnel had been threatened for the past year. The crime occurred in an area where there are large numbers of Ugandan soldiers who, together with the Bahema, constitute the real "State" in the region. The Secretary-General drew attention to this situation in June, in his eighth report on MONUC, when, referring to the incident, he noted that "during past months, many international workers in Bunia have received threatening letters from one of the ethnic groups in the area" (S/2001/572, para. 54). Clashes in Picho, Kalo, Drodro, Nizi and elsewhere have also resulted in some 100 deaths since March. The FLC Chairman's pledge to the Special Rapporteur that there would be an end to impunity has not been fulfilled.

D. The Lusaka peace process

19. The most successful part of the difficult Lusaka Ceasefire Agreement (see E/CN.4/2000/42, para. 18 and annex X, and E/CN.4/2001/40, paras. 32 to 39) has, in fact, been the ceasefire. Of course, there have been countless violations, but borders have generally been respected. Other provisions, especially those on the withdrawal of foreign troops from the Democratic Republic of the Congo and the disarmament of the militias that are undermining Rwanda's security, have not been fulfilled. There have been numerous agreements and meetings on the timetables, goals and conditions of the Lusaka Agreement in the three years since its adoption (Harare, December 2000; Lusaka, February and May 2001; bilateral meetings between the Presidents of Rwanda, Uganda and the Democratic Republic of the Congo; important Security Council resolutions such as 1304 (2000), 1341 (2001) and 1355 (2001)).

20. Rwanda's pretext for not withdrawing from the Democratic Republic of the Congo before the "invited" countries continues to be, officially, the need to disarm the armed groups fighting against it, whose members include participants in the 1994 genocide. The underlying reasons, however, seem to be territorial conquest and exploitation of the country's wealth. In any event, the withdrawal of troops to 15 kilometres (Rwanda offered to do it to 200 kilometres) from the borders, agreed to in Harare, began on schedule but is not complete.

21. Up until August 2000, President Laurent Kabila, who had agreed in Lusaka to the deployment of MONUC, did everything possible to prevent the Mission from doing its work. By contrast, his son, who succeeded him as President, has helped to ensure that MONUC operates effectively. In 2001, Rwanda and RCD have been the Mission's main obstacles: among other things, they opposed the deployment of Blue Helmets in Kisangani; they expelled an Uruguayan soldier upon his arrival (April); and they organized marches against MONUC and the demilitarization of Kisangani (July) and against Security Council resolutions 1304 (2000) and 1355 (2001).

22. Uganda and FLC also put all kinds of obstacles in the way of implementation of the Lusaka and Harare Agreements and Security Council resolutions and agreed to abide by them only if the population's safety is guaranteed, overlooking the fact that the population believes that its safety can be guaranteed only if the Ugandans withdraw. Uganda even threatened to withdraw from the Lusaka Agreement because of the report on the illegal exploitation of Congolese wealth. In its resolution 1355 (2001), the Security Council had to demand that Uganda fulfil the commitments made in Lusaka and Harare.

23. With regard to the location and armaments of the irregular groups operating in the country, the Security Council requested the parties to provide information to MONUC in order to facilitate planning to assist the signatories to the Lusaka Agreement in the disarmament, demobilization, repatriation and reintegration of those groups, but the Special Rapporteur does not know whether the parties have done so.

E. Impact of the war

24. Paragraphs 40 to 45 of the report in document E/CN.4/2001/40 describe some of the catastrophic consequences for the Congolese population of the various internal and international wars. One year later, the situation is even worse: the number of internally displaced persons has doubled from 2 million to 4 million. Other statistics indicate that 5 per cent of the population (1.1 million people) are infected with HIV and only 37 per cent of Congolese have access to essential medical services; this percentage is even lower in territories controlled by the occupying forces. According to the reports of a non-governmental organization, the International Rescue Committee, as many as 2 million people have died as a result of the war, of whom 200,000 were killed in acts of violence.

25. But beyond these figures, the population is enduring tremendous hardships that affect the daily lives of all inhabitants. There is absolutely no communication among the three parts into which the country has been divided. For example, members of the Masasu family (see paras. 32 and 67 below) living in occupied territory in the eastern part of the country have no contact at all with members living in Kinshasa and have not even been able to mourn together the tragic events that they have experienced.

III. The inter-Congolese Dialogue

26. The most significant difference between assassinated President Laurent Kabila and his son and successor Joseph is the latter's commitment to the Inter-Congolese Dialogue, which should, according to the Lusaka Agreement, lead to democracy and the rule of law. Laurent Kabila always opposed on the flimsiest of pretexts, the dialogue to which he had committed himself.[1]

27. Since taking office, the current President has adopted a constructive policy of support for the Facilitator. The former President of Botswana, Sir Ketumile Masire, has already visited the country several times and his offices in Kinshasa operate in complete freedom and independence. The dialogue process was finally accepted by all the Congolese parties to the Lusaka Agreement, following high-level consultations in which the Government, RCD and FLC adopted a set of 14 points which was greeted with great satisfaction by the international community.

28. With the framework of an intelligent process of encouraging the participation of key sectors of Congolese civil society (churches, trade unions, organizations, cultural and professional associations and others), those sectors have already completed the election of their representatives to the Dialogue. As usual, not everyone is satisfied, and indeed in some places authorities in all three parts of the country were clever enough to ensure that they were over-represented. However, in general, the process was legitimate.

29. Opposition organizations and groups have not yet elected their representatives.

30. The preparatory dialogue or "pre-dialogue" was to have begun in Gaberone on 16 July, but not all representatives of the opposition and of civil society had been elected; the process will therefore begin on 20 August.

IV. Political development and democratization in Government-controlled territory

A. The assassination of President Laurent Kabila and appointment of his successor

31. On 16 January 2001, President Kabila was assassinated. He had come to power on 17 May 1997 at the head of an alliance of members of the Rwandan and Congolese armed forces opposed to dictator Mobuto Sese Seko. His assassination was the most dramatic and significant event of the year.

32. It is not easy to determine who was responsible. The truth is that Kabila had made many enemies because of his authoritarianism, the routine arrests of his own colleagues (see E/CN.4/2001/40, para. 80), his disregard for the Lusaka Agreement, the creation of useless institutions (People's Power Committees, National Debate, Legislative and Constituent Commissions, etc.). Already in October 2000, many soldiers from Kivu had been detained on suspicion of conspiracy, including their leader, Anselme Masasu, a former colleague of Kabila who had already been in prison. Masasu and eight fellow soldiers were summarily executed on 24 November (see E/CN.4/2001/40, annex VII, sect. A, forced disappearances; and E/CN.4/2001/40/Add.1, paras. 21 and 22). The alleged perpetrator was apparently from the same group.

33. On 18 January, when Kabila's assassination was finally announced, the armed forces and the Council of Ministers decided to appoint his son Joseph as temporary Head of State; this decision was confirmed by the Constituent and Legislative Assembly, whose members had all been appointed by Laurent Kabila. Joseph Kabila took office on 26 January.

34. There is no legal basis for the appointment of Joseph Kabila: Decree Law No. 3, a constitutional text with which Laurent Kabila confirmed himself as President in 1997, obviously did not provide for his succession.

B. The Government of Joseph Kabila

35. Although Joseph Kabila took office with the same autocratic powers (executive, legislative and judicial) as his father,[2] his pronouncements aroused hopes of greater political liberalization. Some of these hopes have been fulfilled: cooperation with MONUC and with the Facilitator of the Inter-Congolese Dialogue; a moratorium on the death penalty; the closure of some clandestine detention centres; and the amendment of the 1999 law on political parties. Others, such as changes in the Military Court, are still pending.

36. On 6 February, the President established an international commission to investigate the assassination of the President, consisting of 12 Congolese and four Namibians, Angolans and Zimbabweans. Only the identity of its Chairman, the Attorney-General of the Republic, is known officially. It was granted widespread powers (to arrest and detain; to search premises and public and private documents, etc.), in exercise of which it committed very serious violations of human rights (see para. 67 below). On 20 April, it issued a report that decided nothing, not even the release of those whom it had arbitrarily ordered detained. It opted for the simple solution of blaming the crime on Rwanda and Uganda and certain leaders of the rebel groups; it established as the date of death 18 January, the fictitious date invented by the victim's friends; and it did not identify the President's assassin. It lacked all credibility.

37. On 21 May, the new law on political parties was published. Unlike Decree-Law 194/1999, it recognizes the validity of the political parties formed during the Mobutu era and imposes on them formalities that are odd rather than an attack on their freedom (for instance, they must let the authorities know that they still exist). It is certainly not the work of a democratic Government, but it does represent significant progress. Unfortunately, administrative authorities, including the military commander who acts as Minister of the Interior, interpreted the new law in the most arbitrary way imaginable, and when the Special Rapporteur arrived, the Council of Ministers had to give it the obvious, natural interpretation.

38. However, some traditional political parties *Union pour la démocratie et le progrès social* (UDPS), *Forces novatrices pour l'union et la solidarité* (FONUS), *Mouvement populaire pour la révolution* (MPR)-Fait privé, MLDC and *Forces politiques nouvelles* (FPN) do not even accept the new law, a position that will distance them still further from the population. They have also reached agreements with RCD/Goma and FLC that have surprised civil society, for instance, the establishment of the *Union des Forces Congolaises*

pour le respect integral de l'Accord de Lusaka (UFAD) and the 30 June declaration, signed by their representatives abroad, referring to the occupied territories as "liberated territories". They appear to be involved in internal quarrels rather than in the Inter-Congolese Dialogue.

V. Political developments in territory controlled by the *Rassemblement congolais pour la démocratie* (RCD)

39. Since its establishment, the *Rassemblement congolais pour la démocratie* (RCD) has experienced various internal divisions, giving rise to RCD/Goma and RCD/Kisangani (subsequently RCD/Bunia), named after their headquarters, RCD/Wamba and, later, RCD/*Mouvement de libération* (RCD/ML). It has also been deserted by many of its founding members, basically those not belonging to the Tutsi ethnic group. Some of those who left have joined the Kinshasa Government, the non-armed opposition or FLC. RCD controls part of North Kivu, South Kivu, part of Oner Vale province, Maniema, part of Katanga and a large part of Kasai Oriental. Of its 50 founding members, about 25 apparently remain, of whom 19 are Tutsi. On 30 July, many founding members were expelled.

40. The same rejection of RCD that can be observed in Goma and Bukavu can be seen in Kisangani, as shown by the triumphal reception of MONUC in April and the complete failure of an RCD-organized march against MONUC and against the demilitarization of Kisangani by 24 July.

41. There are no parties except RCD, the single party or party-State, in the areas it occupied. It has attracted some people in order to use names of phantom parties founded in the Mobutu era, in an attempt to create an impression of pluralism.[3] Any form of opposition causes those concerned to be branded as "negative forces" or perpetrators of genocide.

42. The Local Defence Unit, a paramilitary group responsible for numerous acts of violence, continues to operate.

43. The Mai-Mai guerrilla forces supported by Kinshasa are becoming increasingly popular. Comments such as "they are our pride" and "they are patriots" were heard in all the cities visited. Some of them formed the *Mouvement de la renaissance du Congo Mai-Mai* (MRC-MM), which the Special Rapporteur considers a guerrilla group rather than a political party.

44. Any form of opposition is suppressed. A *ville morte* (general strike) in Uvira ended with the detention of the organizers and of the taxi drivers and shopowners who joined in. In Bukavu, "wanted" notices were issued for people who were distributing cassette recordings of the sermons of the late Archbishop Kataliko. The Governor of South Kivu prohibited the holding of requiem masses for Kabila (22 January) and shut down shops that closed in mourning.

45. RCD has carried out new acts of sovereignty which the population rejects, such as setting up an appeals court and proclaiming (on 27 July) federalism in the area it controls, including announcing the appointment of provincial assemblies.

46. The RCD rejection of MONUC, the obstacles to the Mission's functioning and the threat to expel Moroccan soldiers are all signs that RCD rejects the Inter-Congolese Dialogue; this will only increase its isolation from the population.

VI. Political development in territory controlled by the *Front de libération du Congo* (FLC)

47. After numerous failed attempts in Kampala, the *Mouvement de libération du Congo* (MLC) finally federated with RCD/Kisangani, Bunia, Wamba or ML, and with RCD/*Nationale* headed by Roger Lumbala, giving rise to the *Front de libération du Congo* (FLC). FLC has Uganda's full support and each faction is vying for Kampala's favour. Wamba, the former RCD leader, was expelled and is now accused of genocide and torture; his house was ransacked by Ugandan soldiers.

48. RCD/*Nationale* developed from the private militia of a rich businessman who owns mines in Bafswende and has close ties to Kampala. Terror reigns in the area it controls and there have been horrendous human rights violations. The desperate population does not even have the right to freedom of movement because of the strong Mai-Mai presence. The Executive Secretary of FLC told the Special Rapporteur that

RCD/*Nationale* had merged with RCD/ML and disappeared. Lumbala is Deputy Minister of FLC.

49. In Bunia, Beni and Gemena and, to a lesser extent, Gbadolite, the population lives in fear. There are no newspapers and only the official radio and television stations. In this climate of fear, civil society has recently begun to organize. FLC security services wanted to attend the meeting between civil society and the Special Rapporteur in Gemena. When this unusual request was denied, they took up positions around the building, whose windows had no glass. The meeting had to be suspended until they withdrew.

50. The population feels that its fate is being decided in Uganda. The general sentiment is that "we hoped that Bemba would get rid of the Ugandans, but he has not been able to".

51. In March, FLC reached an agreement to merge with some Mai-Mai groups (its enemies), undertaking to give them training and move them away from the Ugandan soldiers.

52. In June, armed clashes broke out among the different RCD/ML factions (Wamba, Tibasima and Mbusa) because of personal problems and competition for the favour of Kampala (ongoing since 1999), resulting in the deaths of some 78 innocent civilians.

53. In late July, it was claimed that troops of the União Nacional para a Independência Total de Angola (UNITA) were backing FLC in its fight against Kabila and his ally Angola.

VII. Human rights in Government-controlled territory

A. National Human Rights Conference[4]

54. On 1 February, the new President, Joseph Kabila, announced in Washington, D.C., that a National Human Rights Conference would be held to denounce violations in the eastern part of the country and prepare a plan of action. A preparatory conference would be held and the conference itself organized and held within a month. It was obvious that the conference was being held for propaganda purposes and, of course, these were not achieved. The preparatory conference was held in March and the National Conference took place in June, but important human rights organizations were not invited.

55. Nevertheless, the participants who were invited were able to express themselves freely and there are no substantive criticisms to be made of the resulting documents (a Congolese Charter of Human Rights and a National Plan of Action), which contain positive elements: inter alia, an end to the arbitrary dismissal of 315 magistrates decreed by Laurent Kabila; an independent truth, justice and reconciliation commission; human rights education for police and soldiers; abolition of the death penalty; and primacy of international law over domestic law.

56. The agreements must be translated into law. The Special Rapporteur hopes that they will not remain a dead letter, like the first plan of action (1998), the agreement on the abolition of the Military Court (1999), the various bills and forums on new constitutions,[5] the agreements on the demobilization of child soldiers, and many others.

B. Violations of human rights and international humanitarian law[6, 7]

Right to life

57. Laurent Kabila continued to breach his commitment to suspend the death penalty. The six executions in 2001 took place before his death. His successor imposed a moratorium and there have been no further executions.

58. On the day of the President's assassination, the most serious case of political murder took place: 11 Lebanese citizens were detained and executed without explanation. The international commission on the assassination of the President is investigating the case. In other political murders, a student was killed in Kinshasa (24 March) and two members of the opposition were killed in Lubumbashi (29 April); both murders have gone unpunished. Many soldiers from Kivu who were detained before and after the President's assassination have disappeared, while Pierre Ngbutene Gbende was tortured to death in a Detection of Unpatriotic Activities Police (DEMIAP) detention centre by DEMIAP staff and staff of the National Information Agency (ANR).

Right to liberty of person[8]

59. Many civilians and soldiers from Kivu and Équateur have been detained, for reasons that are not always explained, as have journalists and human rights

defenders. The international commission to investigate President Kabila's assassination and the Military Court commit the greatest number of abuses. Although some detention centres were closed down on the day of the Special Rapporteur's arrival in March, many are used sporadically, for instance, the DEMIAP centre where Ngbutene died as a result of torture.

60. The President declared an amnesty in May, just before the arrival of the Security Council mission, which benefited many people not implicated in violent crimes or treason, a crime of which dissidents[9] were often accused during the Laurent Kabila era (but not under his son and successor). On the occasion of each visit by the Special Rapporteur, detainees were released.

Right to freedom of movement

61. Many people cannot travel abroad and no one may travel to the east of the country. Several members of the opposition are on a list of persons forbidden to leave the country, and many people have their passports taken away from them upon their arrival. The Special Rapporteur found out that the explanation given by the Minister of the Interior ("the passport belongs to the State, it is taken away upon return and must be requested each time we want to travel") is not true.

Right to physical integrity

62. Torture is still used, although in recent months the number of complaints has diminished. The most serious case is that of Pierre Ngbutene (see para. 58 above).

Right to freedom of expression and opinion

63. In contrast to the situation in territory controlled by RCD and FLC, in Government-controlled led territory, there are many independent daily newspapers. However, criticism is always difficult, as media directors and journalists are very often detained, summonsed, interrogated and sometimes tortured.

64. Two private television stations confiscated by Dominique Sakombi, a former Minister under Mobutu and Laurent Kabila, have not been restored to their owners. In the case of *Radio-télévision Kin-Malebo*, it was said that the grounds for confiscation (officially, "placing under supervision") were that it had been acquired with funds embezzled from the State during the Mobutu era (when Sakombi was Minister) an allegation which has never been proved in court.

Right of asylum

65. Nineteen Congolese citizens from Kinshasa, suspected of being loyal to Masasu, fled to Brazzaville between December 2000 and January 2001, where they requested asylum in the offices of the United Nations High Commissioner for Refugees (UNHCR). They were returned to Kinshasa on 23 April without an extradition request, where they were detained by order of the commission to investigate the assassination of the President. All had been detained previously. Three judicial officials of the Military Court,[10] who also fled to the Republic of the Congo because of persecution by the Prosecutor of that Court, run the same risk of refoulement. No decision has been taken as yet on their requests for asylum, even though they are not accused of crimes which preclude asylum and persecution continues in Kinshasa against their three families. The Republic of the Congo is a party to the 1951 Convention relating to the Status of Refugees and its Protocol.

Right to freedom of association

66. The new law on political parties legalized the parties which Laurent Kabila had banned, but repression continues under the new law. Both before and after its passage, opposition leaders and soldiers were detained and their activities prohibited. The offices of the Association Zaïroise de défense des droits de l'homme (ASADHO), closed down by Laurent Kabila, were re-opened by his son just before the Security Council mission. However, there have been many cases of persecution of non-governmental organizations (detention, threats, summonses). The Misabiko and N'Sii cases are just two examples.

Right to due process

67. This is the right most wantonly violated in the territory controlled by Kinshasa, thanks to the discredited Military Court[11] and the commission to investigate the assassination of the President.

(a) **Trial and execution of Anselme Masasu**.[12] Masasu and his group were detained, tortured, transferred to a different city, imprisoned, charged, tried on the front 2,000 kilometres from the scene of the alleged crime, convicted and nine of them executed

in total secrecy by the Military Court and its Prosecutor, Charles Alamba Mongako. They did not have a lawyer ("there are no lawyers at the front", according to the President of the Court) or the right to call witnesses.[13] Many of those detained have disappeared.

(b) **Detention of soldiers and a former ambassador**. Between 26 January, 48 hours after Joseph Kabila was sworn in, and 19 February, 11 soldiers and a former ambassador were detained, accused of planning to assassinate the new Head of State. They were tortured, transferred in secret to Lubumbashi and later Buluo, interrogated only once by the Military Court and tried before it in Likasi — 2,200 kilometres from the scene of the alleged crime — in order to prevent their legal defence. Many of them did not know each other.

(c) **Detainees**. Fifty citizens of Kivu and two of Équateur, plus the widow and a son of Ngbutene, were detained between 14 and 16 April and taken to a DEMIAP detention centre, despite official reports of its closure, where one of them, Ngbutene, died. They were accused of plotting against the President and interrogated just once. Although they are being held at the disposal of the Military Court and its Prosecutor, they are not being tried and do not have the right to defence counsel. Even worse, the Court, which has jurisdiction to investigate the torture which resulted in the death of Ngbutene (a crime committed by soldiers on military premises in the performance of their duties), has launched no investigation. This case involved arbitrary detention plus impunity for violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(d) **International commission to investigate the assassination of the President**. This commission was granted widespread powers (see para. 36). Over 200 people were detained on its orders, of whom over 100 were held in the first wing of the Kinshasa Penal and Rehabilitation Centre, guarded by Zimbabwean soldiers, the only ones to authorize visits and material comforts. In addition to the Attorney-General, its chairman, it was confirmed that the all-powerful Military Court Prosecutor was a member of the commission. Among those detained are two human rights defenders (Golden Misabiko and N'Sii Luanda) and other individuals whose lack of connection to the assassination is clear. There is no right of appeal against the decisions of the former commission, nor do the detainees have access to a lawyer. Neither the President, the four Ministers interviewed, the Attorney-General or the Military Court Prosecutor had any response to the basic questions of who can release the detainees or when or before whom the trial of the prisoners, some of whom have been held incommunicado for over six months, will begin.

Violations of international humanitarian law

68. The most serious violations of international humanitarian law committed by the Congolese Armed Forces (FAC) and the other armies allied with Kinshasa (Angola, Namibia and Zimbabwe), as well as by the Mai-Mai guerrilla fighters were the December bombings of Kalemie and Filtisaf (one and 10 civilian deaths); Pweto (January); the Mai-Mai attacks in Rutshuru and Kibumba (February); and the Mai-Mai capture of the civilian settlements of Kimia Kimia, Dungo Mulanga and Kasese Bolanga (June). Even more serious was the taking of 30 foreign hostages (Thai, Swedish and Kenyan) in May, which ended in late July thanks to the intervention of opposition leader François Lumumba.

VIII. Human rights and international humanitarian law in territory controlled by the *Rassemblement congolais pour la démocratie* (RCD)[14]

69. The situation of terror, suspicion and insecurity prevailing in the territory occupied by RCD and its ally Rwanda is in itself a "situation of ongoing violation of human rights" which, quite apart from specific acts and individual violations, affects everyone. The situation in the eastern part of the country must be analysed in this context.

70. The denial of the right enshrined in article 1 of the International Covenant on Civil and Political Rights and article 1 of the International Covenant on Economic, Social and Cultural Rights: "All peoples may ... freely dispose of their natural wealth and resources" and "In no case may a people be deprived of its own means of subsistence" is especially significant.

71. The plunder of Congolese wealth was thoroughly documented in the report of the Expert Panel appointed

by the Security Council (S/2001/357), support for whose work was expressed by consensus in Council resolution 1355 (2001) (paras. 21 to 23). Furthermore, according to the report, the conflict in the Democratic Republic of the Congo has become mainly about access to, control of and trade in five key mineral resources: coltan, diamonds, copper, cobalt and gold, to which precious timbers and coffee should be added.

72. RCD has established a monopoly over the exploitation of coltan and, as reported to the Special Rapporteur, demands a monthly war tax from its concessionary which means that the Congolese people are paying with their own wealth for the aggression against the country.

73. It is true that according to the report, the countries invited to defend the Democratic Republic of the Congo, as well as some of their leaders, have also profited from Congolese wealth, but article 1 of the International Covenants does not refer to that, it is clearly directed at foreign Powers which exploit such wealth against the wishes of the people concerned.

Right to life

74. No death sentence has been carried out. The Special Rapporteur learned of two cases of death by torture (both in Ciherano), which so far have gone unpunished, plus another in which the perpetrator, an RCD commander, was tried and convicted. In addition, information was received on deaths as a result of torture inflicted by Rwandan soldiers on Congolese who refused to work in the exploitation of national wealth; this information is confirmed by paragraph 42 of the report of the Expert Panel. Attacks by Rwandan and RCD soldiers on the defenceless population are common and definitely result in deaths.

Right to physical integrity

75. Torture continues to be used frequently, especially on those suspected of collaborating with the Mai-Mai. The Special Rapporteur received information from 67 individuals who had been tortured in Uvira in December and on many cases in Goma, especially in the Bureau II detention centre. Despite the announcements authorizing access to detention centres, which at first were complied with, the Special Rapporteur was informed on his second visit, of difficulties faced in that regard by lawyers and non-governmental human rights organizations.

Right to liberty of person

76. Accusations of "committing genocide", "collaborating with the Mai-Mai", "having contacts with Kabila" or even "having sent a letter to Masire" continue to be sufficient grounds for detaining individuals.

Right to freedom of movement

77. RCD denials notwithstanding, many people are unable to leave the territory controlled by Rwanda and RCD. The most recent reported case is that of a human rights activist who travelled to Kinshasa for the National Conference and since then has been unable to leave the country. The Special Rapporteur has a list of 88 people who cannot leave RCD-controlled territory.

Right to freedom of expression and opinion

78. There is none. There are no independent daily papers, and those which RCD showed to the Special Rapporteur appeared to be political propaganda. In Kisangani, Radio Amani of the Catholic Church is threatened with closure because it spoke of demilitarization, human rights and anti-personnel bombs, and a journalist was cautioned for reporting statements by the Director of Peacekeeping Operations. In Bukavu, Radio Maendeleo remains shut down.

Right to due process

79. Impunity continues to prevail for crimes (torture, massacres, etc.) committed by APR and RCD troops, even though in one newsworthy case of death by torture, a commander was convicted and given a lengthy sentence. There are other cases which irritate the population, such as the one where a number of soldiers allegedly stole war materiel from Bandoka airport; the soldiers belonging to so-called indigenous ethnic groups remain on trial, while the two Banyamulenge were released. No information was received this year on trials before the *Conseil de guerre opérationnel*.

Violations of international humanitarian law

80. The violations of the laws of war committed by Rwanda and RCD are of course much more serious than those committed by the Government, although they are not on the horrific scale of 1998, 1999 and 2000. The biggest massacres were those at Chiherano, Bugobe, Nyatende, Kamisimbi, Lurhala and Nyangesi

(South Kivu) in December, with a toll of 60 people dead and five burned alive. Bahutu soldiers in the service of APR were involved in the incidents, and 16 women and girls, some of them under 9 years old were raped. In April, APR and RCD soldiers attacked the health centre in Ilangi, Mwenga, killing seven pregnant women. In June, there were attacks on the towns of Ciherano, Cikolwe, Ikumba (10 people burned to death in one family) and Bidesi (26 people burned to death). That same month, RCD and APR attacked civilian populations in Ruzizi, Lemera, Katobo and Rugeje, killing 30 people.

IX. Human rights and international humanitarian law in territory controlled by the *Front de libération du Congo* (FLC)

81. The information reaching the Special Rapporteur is very limited because there are no solid, professional non-governmental organizations. For example, no organization in Gbadolite or Gemena had email or any way of accessing the Internet.

82. Everything that was said in paragraphs 70 to 72 concerning the right of peoples to dispose freely of their natural wealth and resources applies as much to FLC and Uganda as it does to Rwanda and RCD.

83. It is true that the climate of fear pre-dated the arrival of FLC. Actually, the memory of the sweep through the north-east of the country by Kabila's Alliance des forces démocratiques pour la libération du Congo-Zaïre (AFDL) in 1997 and the horrific massacres committed is still alive in the hearts and minds of the inhabitants of Équateur province.

84. In Gbadolite, "we are safe, they do not loot us, because no one dares protest". This assessment, repeated more than once, shows that the situation observed in 2000 in that city has worsened (E/CN.4/2001/40, para. 72).

Right to life

85. The Special Rapporteur learnt of a case of death by torture in Kodaliko and of many acts of violence by Ugandan soldiers that caused countless deaths in Fringeti and Beni.[15] Ugandan soldiers take revenge on Congolese civilians for attacks by Ugandan guerrilla fighters of the National Army for the Liberation of Uganda (NALU) and the Allied Democratic Forces (ADF). There have also been repeated reports of violations of the right to life by RCD/Nationale (RCD/N). The motives have more to do with profit than with the armed conflict (a diamond trader and those accompanying him were murdered by UPDF and RCD/N soldiers in March, for instance). UPDF protection of the Bahema has aggravated the conflict with the Balendu, resulting in over 15,000 deaths since 1999.

Right to liberty of person

86. The Special Rapporteur received few reports of incidents of arbitrary detention. However, in the Bunia and Beni prisons he met people who said that they were being held for political offences, and in all the cities he visited, it was emphasized that "there are many political prisoners" but that people are afraid to complain. A serious incident occurred in Bunia, namely, the arrest of three judges for having met with the Special Rapporteur.

Right to physical integrity

87. In Beni, the Special Rapporteur managed to get inside a military camp known to be a torture site and heard the moans of imprisoned soldiers. Not long before, there had been civilians in the camp. He also received complaints of torture in Bunia.

Right to freedom of expression and opinion

88. Only in Beni are there independent (monthly) publications. In Gbadolite and Gemena, the only known publication is the FLC information bulletin.

Right to freedom of association

89. There are no political parties and civil society is only just beginning to organize (see E/CN.4/2001/40, para. 126).

Right to due process

90. Although the impunity surrounding human rights violations is undeniable, particularly when those responsible are Ugandans, the Special Rapporteur congratulates the FLC authorities for having brought to trial the persons who tortured political leader Désiré Lumbulumbu to death in 1999.

Violations of international humanitarian law

91. UPDF has throughout the year been attacking civilian settlements such as Biambwe, Musienene, Nbingi, Bunyatenge, Kaghumo, Banyuke and Kirima. In the process, it has burnt entire villages, murdered women and children, attacked Catholic and Protestant churches, taken hostages and committed other acts of barbarism.

X. Conclusions and recommendations

A. Conclusions

92. The various wars, especially the one started by Rwanda and Uganda in 1998, continue to leave a trail of thousands of dead and wounded, burnt-out homes, orphans and, especially, poverty in a country with tremendous mineral and agricultural wealth. The Democratic Republic of the Congo currently ranks 142nd out of 152 on the Human Development Index of the United Nations Development Programme (UNDP). It has become clear that the war, for which the pretext is the security of the countries that started it, is also directed towards annexation and illegal exploitation of the resources of the Democratic Republic of the Congo. Congolese throughout the country feel humiliated and abandoned, and those under foreign occupation are living in terror and insecurity.

93. Uganda, Rwanda and Burundi have exported to the Democratic Republic of the Congo their own respective conflicts with NALU and ADF, the ex-FAR and Interahamwe, and FDD. In these conflicts, not one civilian of those countries is killed or wounded and not one of their trees, roads or homes is destroyed. The looting of Congolese wealth is financing death and destruction in that country.

94. The Lusaka Ceasefire Agreement, as adjusted on various occasions, remains valid, and although it is not being fully observed, there have been no substantial changes in the positions of the parties.

95. But still there is no peace and we are no nearer to the withdrawal of foreign troops, starting with the troops of those countries that have violated the territorial integrity and sovereignty of the Democratic Republic of the Congo. Each time, those countries and the Congolese factions that support them find new pretexts for delaying the fulfilment of their obligations.

96. In time of war, the rules of international law governing internal, international and internationalized internal armed conflicts are habitually violated. The most serious violations are the attacks on defenceless civilian settlements by the allied armies of RCD/Rwanda (Ciherano, Cikolwe, Ikumba, Ruzizi, Lemera, Katobo and Rugeje) and FLC/Uganda (Biambwe, Musienene, Nbingi, Bunyatenge, Kaghumo, Banyuke and Kirima). As far as the Government is concerned, the most serious violations are the bombings and attacks at Kimia Kimia, Dungo Mulanga and Kasese Bolanga and the taking of 30 foreign hostages by the Mai-Mai, with support from the Congolese Armed Forces.

97. In Government-held territory, the worst violation was the assassination of President Laurent Kabila on 16 January and the totally illegal succession of his son Joseph. The assassination did not cause the destabilization that had been feared, although the Congolese Armed Forces killed 11 Lebanese nationals, a crime for which no explanation has as yet been given.

98. The new President announced measures that aroused hopes at home and abroad. Some of these have already been put into effect: a moratorium on the death penalty, greater freedom of action for political parties, a National Human Rights Conference and authorization for the resumption of activities by a prominent non-governmental organization that his father had closed down. In addition, he pledged to comply with the agreements concluded by his father in Lusaka (which his father had made a point of disregarding), especially those on supporting MONUC and the Facilitator of the Inter-Congolese Dialogue, Sir Ketumile Masire.

99. Still pending and apparently not on the agenda are the abolition of the Military Court or at least the restriction of its jurisdiction to crimes committed by members of the armed forces and, especially, the adoption of legislation to give effect to the agreements reached at the National Human Rights Conference. Although some secret detention centres have been closed down, some are used occasionally and in one of them, operated by DEMIAP, a suspected opposition member was tortured to death. The most serious human rights situation is the continuing abuses by the Military Court and the arbitrary actions of the international commission to investigate the assassination of the President. While there are daily newspapers in Kinshasa, Lumumbashi and other cities, many

journalists have been detained and two private radio and television channels remain confiscated.

100. In areas controlled by RCD and Rwanda and by FLC and Uganda, the most serious violations are reprisals against civilian populations, in the form of deadly attacks, for acts for which they are not responsible, and the systematic, illegal looting of natural wealth and resources belonging to the Congolese people. There is no freedom of expression, independent dailies are few and far between (the Special Rapporteur knows of only two) and a one-party system is in effect: RCD in the east and FLC in the north-east. The population's fear and rejection of foreign occupation are obvious, even in places where they were not apparent a year ago (Gbadolite). Uganda, Rwanda, FLC and RCD are refusing to comply with what was agreed in Lusaka and ordered by the Security Council: the withdrawal of foreign troops, starting with those that have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo, and the demilitarization of Kisangani. Another negative aspect of Uganda's involvement is its strong support for the Bahema in the conflict with the Balendu, which has totally destabilized the region and paved the way for killings and abuses.

101. There has been no improvement in the situation of women and children. At least five of the national armies fighting in the war, as well as all the Congolese and foreign guerrilla movements, continue to recruit children, even as they claim to be putting into effect demobilization plans whose effects cannot be seen, as the Special Rapporteur reported last March (E/CN.4/2001/40/Add.1, sect. IV).

102. The inter-Congolese "pre-dialogue" will begin soon, with international facilitation. The model chosen seems to accommodate two apparently contradictory wishes of the Congolese people: they call on that abstraction known as the "international community" to intervene, but they protest when it does (see E/CN.4/2000/42, para. 18, and E/CN.4/2001/40, para. 33 and footnote 6). Thus, it is the Congolese, and not the Facilitator, who will carry on a dialogue with a view to laying the foundations of the country they want. The "international community" will intervene through a person of great prestige, Sir Ketumile Masire, who will act according to the exact terms of his mandate as reflected in his title.

103. The Special Rapporteur's two visits and the Security Council's mission wielded positive results: political prisoners were released, prison conditions improved, a law on political parties was adopted and interpreted rationally, and organizations that had been shut down resumed operations; this happened in all three parts of the country.

B. Recommendations

104. In addition to all the recommendations made in previous reports, the Special Rapporteur proposes:

105. *To all the parties to the conflict, political parties and key sectors of civil society in the country*: (a) that they commit themselves fully and in good faith to the Inter-Congolese Dialogue, avoiding pointless arguments and always keeping their eyes on the goal — the establishment of a democratic, participatory system and full respect for civil, cultural, economic, political and social rights. Support for the Facilitator is essential to this end; (b) that they cooperate with MONUC as it carries out its functions, informing it of the presence and armaments of armed groups in order to locate them, facilitate their disarmament and promote their reintegration; (c) that they begin immediately to demobilize, disarm and reintegrate child soldiers; and (d) that they respect the rules of international humanitarian law.

106. *To the Government and other public authorities in Kinshasa*: (a) that they take urgent steps to restore the rule of law, resolving the situation of persons currently detained by the Military Court and the international commission to investigate the assassination of the President; (b) that they restore the radio and television channels that were confiscated and refrain from taking action against the media and journalists; (c) that they stop supporting the Mai-Mai; (d) that they quickly draft laws giving effect to all the agreements reached at the National Human Rights Conference; and (e) that they give precedence to international human rights norms over domestic law.

107. *To the countries that have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo*: (a) that they comply strictly with the Security Council resolutions on withdrawal from the Democratic Republic of the Congo and demilitarization of Kisangani; (b) that they refrain from

exploiting Congolese natural wealth and resources and return the goods they have exploited illegally.

108. *To RCD and MLC*: (a) that they end all relations of subordination and cooperation with the armies that have violated the sovereignty of the Democratic Republic of the Congo; (b) that they put an immediate end to actions that cause terror among the Congolese population; (c) and that they suspend any action that presupposes the country's partition, such as the introduction of federalism and the appointment of provincial assemblies not provided for under Congolese law, and repeal all the measures already taken (changes of flag, twinning of towns, etc.).

109. *To Congolese lawyers and human rights organizations*: that they ensure the defence of victims in every case where human rights have been violated. For every person detained, they must file a writ of habeas corpus, force the judge to act, exercise the right to meet with the prisoner, demand the person's registration in the log of detainees and visit the prisons. For every case of torture or murder, there must be criminal proceedings, a complaint, a request for a medical report, etc. Every arbitrary judicial action must be appealed or countered by the most appropriate judicial remedy.

110. *To international and non-Congolese organizations of lawyers and judges and to international non-governmental organizations*: that they keep a close watch by sending observers to the proceedings, on the trials that are going on, or in which the international commission to investigate the assassination of President Kabila or the Military Court are involved, especially those mentioned in this report.

111. *To the Office of the United Nations High Commissioner for Human Rights*: that it open new offices in the country's main cities in order to help the people living there.

112. *To States that have economic interests in and/or provide economic or political backing to the countries that have violated the sovereignty of the Democratic Republic of the Congo*: (a) that they exert economic and political pressure to make those who have flouted Congolese sovereignty comply strictly with the Lusaka Agreement and Security Council resolutions on the withdrawal of foreign troops, beginning with such withdrawal, and on the demilitarization of Kisangani; (b) that they make sure that Congolese resources that have been illegally exploited are returned; (c) that they demand of the countries they support, just as they rightly demand of the Democratic Republic of the Congo, that they establish democratic regimes that are respectful of human rights and domestic and international peace — the only way to ensure good governance.

Notes

[1] See E/CN.4/2001/40, paras. 49 and 50.

[2] See E/CN.4/1998/65, paras. 32 to 37, E/CN.4/1999/31, para. 17, E/CN.4/2000/42, paras. 32, 33 and 125 (a) and E/CN.4/2001/40, para. 48.

[3] E/CN.4/2001/40, para. 61.

[4] See E/CN.4/2001/40/Add.1, para. 25.

[5] See E/CN.4/2001/40, para. 57.

[6] Examples of cases will be included in the report to the Commission on Human Rights.

[7] The Rapporteur regrets that, because of the 16-page limitation, this preliminary report will not deal with freedom of religion and belief, economic, social and cultural rights and the rights of women and children, which will be included in the report to the Commission on Human Rights. With respect to the recruitment of child soldiers, there has been no significant change in the situation described in document E/CN.4/2001/40/Add.1, paras. 59 to 83.

[8] Prison conditions will be addressed in the report to the Commission on Human Rights.

[9] See A/CN.4/2001/40, para. 89.

[10] Case already analysed in E/CN.4/2001/40, para. 90.

[11] E/CN.4/1999/31, paras. 90, 91 and 107; E/CN.4/2000/42, paras. 63, 122 and 137; E/CN.4/2001/40, paras. 89, 90, 170 and 176 (b) (ii).

[12] E/CN.4/2001/40, para. 75, and E/CN.4/2001/40/Add.1, paras. 21 and 22.

[13] The President of the Court and its Prosecutor, Alamba, said that they had "chartered a plan for the witnesses indicated by the accused". This is not true: the survivors of the summary execution said that they were unaware that they had the right to call witnesses.

[14] Notes 6 and 7 above also apply.

[15] E/CN.4/2001/49/Add.1, paras. 35 and 36.

Annex I

Reports and resolutions of the Commission on Human Rights and the General Assembly

A. Resolutions

Commission on Human Rights

1994/87, 1995/69, 1996/77, 1997/58, 1998/61, 1999/56, 2000/15, 2001/19.

General Assembly

53/160, 54/179, 55/117.

B. Reports

Commission on Human Rights

E/CN.4/1995/67, E/CN.4/1996/66, E/CN.4/1997/6 and Add.1 and 2, E/CN.4/1998/64, E/CN.4/1998/65, E/CN.4/1999/31, E/CN.4/2000/42, E/CN.4/2000/43, E/CN.4/2001/19 and Add.1.

General Assembly

A/52/496, A/53/365, A/54/361, A/55/403.

Annex II

Officials, eminent persons and institutions with whom the special rapporteur met and places he visited during his mission to the Democratic Republic of the Congo (19 July to 2 August 2001)

A. In Government-controlled territory

Government officials

President of the Republic; Minister and Deputy Minister of State for Foreign Affairs and International Cooperation; Minister for Human Rights; Minister of Information; Minister of Justice; Attorney-General of the Republic; Prosecutor and President of the Military Court; Inspector-General of Police; President of the Constituent and Legislative Assembly — Transitional Parliament.

Other eminent persons and institutions

Members of the diplomatic corps accredited to the Democratic Republic of the Congo; representatives of United Nations agencies (Kinshasa, Goma, Kisangani, Gbadolite, Gemena, Lubumbashi); team of the Facilitator of the Inter-Congolese Dialogue.

Non-governmental organizations/civil society

Association zaïroise de défense des droits de l'homme; Association des femmes magistrats du Congo; Association des femmes médecins oeuvrant en République Démocratique du Congo; Association des journalistes de la presse féminine; Association pour la défense de l'enfant et de la femme; Cause commune-Lobby pour la promotion et la défense des droits de la femme congolaise; Centre africain pour la paix, la démocratie et les droits de l'homme; Centre congolais de l'enfant et de la famille; Centre de développement pour la femme; Centre des droits de l'homme et du droit humanitaire international de Lubumbashi; Cercle de réflexions bibliques pour la paix et le développement; Collectif d'action pour le développement des droits de l'homme; Collectif des jeunes solidaires du Congo-Kinshasa; Collectif des parents d'enfants soldats; Congo Peace Initiative; Conseil national des associations pour la démocratie et les droits de l'homme; Eveil de la femme; Fédération des avocats et activistes des droits de l'homme; Groupe d'action pour la démobilisation et la réinsertion des enfants soldats; G315; Humanité nouvelle; Initiatives pour le développement de l'entreprenariat féminin à la base; Journalistes en danger; Justice sans frontières; Ligue de conscientisation des électeurs; Ligue nationale pour la protection des droits des locataires et des sans-abris; Law Group; Mouvement international des femmes pour la démocratie et le développement, Congo; Radio-télévision Kin-Malebo; Réseau Action Femmes; Réseau d'éducation civique au Congo; Réseau des organisations des droits de l'homme et d'éducation civique d'inspiration chrétienne; Réseau national contre le racisme et le tribalisme en République Démocratique du Congo; Réseau national des organisations non-gouvernementales des droits de l'homme de la République Démocratique du Congo; Secrétariat technique de la société civile et comité pour la démocratie et les droits de l'homme; Société des juristes catholiques du Congo;

Syndicat des cadres et des employés des secteurs des services; Voix des sans-voix pour les droits de l'homme; Pastor of Gombe Church; former and serving judges; journalists, political leaders and human rights activists imprisoned in Kinshasa.

Political parties

Union pour la démocratie et le progrès social (UDPS); Parti lumumbiste unifié (PALU); Forces novatrices pour l'union et la solidarité (FONUS); Rassemblement de l'opposition congolaise (ROC)-Forces du futur; Parti démocratique et social chrétien (PDSC); Mouvement populaire pour la révolution (MPR); Mouvement national congolais/Lumumba (MNC/L); les Verts congolais; Union des nationalistes fédéralistes congolais (UNAFEC).

Places visited

Kinshasa Penal and Rehabilitation Centre

Jail of the Provincial Police Inspectorate of the City of Kinshasa

Jail of the Detection of Unpatriotic Activities Police

Jail of the National Information Agency

Kinshasa University/Law Faculty

Kinshasa General Hospital.

B. In territory controlled by the Rassemblement congolais pour la démocratie (RCD)/Goma

Officials

Heads of the Departments of Justice, Human Rights and Dispute Settlement; Foreign Affairs and Cooperation; National Administration; Security and Information; Military Activities; Cabinet Director and Auditor-General of the Armed Forces; Governor of Orientale province (Kisangani).

Non-governmental organizations/civil society/political parties

There are no political parties.

For security reasons, the list of non-governmental organizations met by the Special Rapporteur in the territory controlled by RCD/Goma is not published.

C. In territory controlled by the Front de libération du congo (FLC)

Officials

Secretary-General of FLC; presidential adviser; most of the members of the FLC Executive Committee (national secretaries responsible for youth and sports, trade and agriculture, military training and security); Attorney-General; Commissioner of Gemena district.

Non-governmental organizations/civil society/political parties

There are no political parties.

For security reasons, the list of non-governmental organizations met by the Special Rapporteur in the territory controlled by FLC is not published.

D. Eminent persons met during the missions to New York (20 to 26 February and 7 and 8 May 2001)

1. United Nations

The Secretary-General; officials of the Office of the High Commissioner for Human Rights, the Department of Political Affairs (Assistant Secretary-General and Director of the Africa I Division), the Department of Peacekeeping Operations (Under-Secretary-General) and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (Under-Secretary-General); the Special Representative of the Secretary-General for the Democratic Republic of the Congo; the Head of MONUC; officials of UNDP, UNHCR (Director of the New York Liaison Office) and the United Nations Children's Fund (UNICEF) (Director of the Division of Evaluation, Policy and Planning).

2. Government delegations/permanent missions to the United Nations/others

Democratic Republic of the Congo; United States of America; France; Belgium; Sweden (Presidency of the European Union); Botswana (Facilitator of the Inter-Congolese Dialogue).

3. Regional organizations

Special Envoy of the European Union for the Great Lakes Region; Deputy Executive Secretary of the Organization of African Unity at United Nations Headquarters, New York.

4. Congolese rebel movements

Rassemblement congolais pour la démocratie/Goma; Front de libération du Congo (FLC).

5. Non-governmental organizations

Human Rights Watch; Amnesty International.

Annex III

Armed conflicts taking place in the territory of the Democratic Republic of the Congo

Government of the Democratic Republic of the Congo[a]/Rassemblement congolais pour la démocratie/Goma,[a] Rwanda, Burundi.

Government of the Democratic Republic of the Congo[a]/Front de libération du Congo, Uganda.

Government of Rwanda/former Rwandan Armed Forces and Interahamwe.

Government of Uganda/various armed opposition groups.

Government of Burundi/Front pour la défense de la démocratie.

Government of Angola/União Nacional para a Independência Total de Angola.

Government of the Republic of the Congo/various armed opposition groups.

Government of Rwanda/Government of Uganda.

Tribal conflict between the Bahema and the Balendu.

National armies

Democratic Republic of the Congo

Invited armies: Angola, Namibia, Zimbabwe

Armies belonging to countries that have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo: Uganda, Rwanda, Burundi.

Irregular armed groups directly or indirectly involved in the armed conflict in the Democratic Republic of the Congo

Rassemblement congolais pour la démocratie (RCD)

Former Rwandan Armed Forces (ex-FAR)

Interahamwe

Mouvement de libération du Congo (MLC)

União Nacional para a Independência Total de Angola (UNITA)

Mai-Mai of South Kivu

Mai-Mai of North Kivu

Front pour la défense de la démocratie (FDD)

Lord's Resistance Army

Sudan People's Liberation Army (SPLA)

[a] Parties mentioned in the Lusaka ceasefire agreement.

Simba Brigade

Union des nationalistes républicains pour la libération (UNAREL)

Mouvement pour la sécurité, la paix et le développement (MSPD)

Former Ugandan National Army (FUNA)

West Nile Bank Front (WNBF)

National Army for the Liberation of Uganda (NALU)

Allied Democratic Forces (ADF)

Front de libération du Congo (FLC)

Rassemblement congolais pour la démocratie/Mouvement de libération (RCD/ML), also known as RCD/Kisangani and RCD/Bunia

Mongols (Hutu militia operating in the Masisi)

Local Defence Unit (paramilitary group organized by RCD/Goma).

Annex IV

International instruments to which the Democratic Republic of the Congo is a party

International Covenant on Economic, Social and Cultural Rights

International Covenant on Civil and Political Rights

International Convention on the Elimination of All Forms of Racial Discrimination

International Convention on the Suppression and Punishment of the Crime of Apartheid

Convention on the Prevention and Punishment of the Crime of Genocide

Convention on the Rights of the Child

Convention on the Elimination of All Forms of Discrimination against Women

Convention on the Political Rights of Women

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

Convention relating to the Status of Refugees and Protocol relating to the Status of Refugees

Geneva Conventions of 12 August 1949

Protocol I additional to the Geneva Conventions of 12 August 1949.